

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

ABRAHAM BARKHORDAR, SARAH
ZELASKY, and ELLA WECHSLER-
MATTHAEI, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

HARVARD UNIVERSITY,

Defendant.

Civil Action No. 1:20-cv-10968-IT

**DEFENDANT’S MOTION FOR LEAVE TO FILE THIRD NOTICE OF
SUPPLEMENTAL AUTHORITY**

Pursuant to Local Rule 7.1(b)(3), defendant Harvard University (“Harvard”)¹ respectfully seeks leave to file a three-page Third Notice of Supplemental Authority, attached hereto as Exhibit A, of two new COVID-19 tuition and fee refund actions in connection with Harvard’s Motion to Dismiss.

In further support hereof, Harvard states the following:

1. Harvard filed its Motion to Dismiss the First Amended Consolidated Complaint on October 7, 2020. (ECF No. 33). On October 21, 2020, Plaintiffs filed their Opposition to Harvard’s Motion to Dismiss. (ECF No. 47). Harvard filed a Reply Brief in further support of its Motion to Dismiss, with leave of the Court, on November 5, 2020. (ECF No. 50).
2. On November 5, 2020, Plaintiffs filed a Notice of Supplemental Authority. (ECF No. 51.) On November 12, 2020, Harvard filed a Notice of Supplemental Authority and

¹ The President and Fellows of Harvard College is the legal entity comprising Harvard University, and is the proper party to this litigation.

Response to Plaintiffs' Notice of Supplemental Authority, with leave of the Court. (ECF No. 54.)

3. On December 16, 2020, Plaintiffs filed a Second Notice of Supplemental Authority, with leave of the Court. (ECF No. 57.) On January 5, 2021, Harvard filed a Second Notice of Supplemental Authority and a Response to Plaintiffs' Second Notice of Supplemental Authority, with leave of the Court. (ECF Nos. 60, 61.)

4. Harvard submits that its Third Notice of Supplemental Authority will facilitate this Court's consideration of the Motion to Dismiss because it will inform this Court of two additional COVID-19 tuition refund actions. *See* Exhibit A.

5. Neither party will be prejudiced by allowance of the instant Motion, which will not change any scheduling order or deadline in this case. In addition, this Court has yet to schedule oral argument on Harvard's Motion to Dismiss.

6. Harvard has conferred with counsel for Plaintiffs, who indicated that Plaintiffs assent to the relief requested herein.

WHEREFORE, Harvard respectfully requests that this Court grant it leave to file the Third Notice of Supplemental Authority attached hereto as Exhibit A.

Dated: February 11, 2021

Respectfully submitted,

/s/Anton Metlitsky

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*Attorneys for Defendant
President and Fellows of Harvard College*

LOCAL RULE 7.1 CERTIFICATION

I hereby certify that, pursuant to D. Mass. Local Rule 7.1(A)(2), counsel for Defendant conferred with counsel for Plaintiffs, who indicated that Plaintiffs assent to the relief requested herein.

/s/Anton Metlitsky

Anton Metlitsky (*pro hac vice*)

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on February 11, 2021.

/s/Anton Metlitsky
Anton Metlitsky (*pro hac vice*)